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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/015,548

12/11/2001

Robert Crites

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EXAMINER

LASTRA, DANIEL

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/015,548	<b>Applicant(s)</b> CRITES, ROBERT	
	<b>Examiner</b> DANIEL LASTRA	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1-30 have been examined. Application 10/015,548 (METHOD FOR CONTACT STREAM OPTIMIZATION) has a filing date 12/11/2001

### **Response to Amendment**

2. In response to Final Rejection filed 09/19/2007, the Applicant filed an RCE on 03/19/2008, which amended claims 2-8, 10-12, 21, 24 and 25.

### **Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Herz (US 2001/0014868).

Claim 1, Herz teaches:

A computer-implemented method of determining a prioritized listing of offers for use to contact potential customers, the method comprises:

generating in a computer an ordered listing of offers from a set of offers, by which to contact a potential customer from a group of potential customers by considering the

potential customer independently from others of the potential customers in the group, during generating of the ordered listing of offers for the potential customer (see paragraphs 158, 236-243).

Claim 2, Herz teaches:

eliminating offers that are mutually exclusive *from the ordered listing of offers* (see paragraphs 236-243).

Claim 3, Herz teaches:

wherein the ordered *listing of offers* is prioritized based on highest expected profit (see paragraphs 240, 246, 257-258).

Claim 4, Herz teaches:

wherein generating *comprises*: operating on the set of offers for each member of the group of potential customers (see paragraphs 236-243).

Claim 5, Herz teaches:

wherein if a number of offers exceeds a number N of offers allocated for a *potential* customer, the method further comprises:

producing an alternative *ordered listing of offers* having N offers (see paragraphs 236, 243, 257-258).

Claim 6, Herz teaches:

wherein generating the ordered listing *of offers* is performed independently for each potential customer in the group of potential customers to produce a list for each potential customer (see paragraphs 257-258).

Claims 7, 20 and 28, Herz teaches:

A computer-implemented method of determining a prioritized number of offers to contact customers from a group of customers, the method comprising:

determining in a computer an ordered set of offers to be sent to each customer, and for each customer, eliminating any offers that are not applicable to the customer based on eligibility rules for the offer or offers for which an expected profit for the customer is below a threshold amount (see paragraph 257); and

ordering remaining offers by expected profit (see paragraphs 237-240; 257-258).

Claims 8 and 21, Herz teaches:

producing a proposed solution having *an ordered listing of N* offers where N is the lesser of the total remaining offers and the maximum number of offers allowed for the customer (see paragraphs 257-258).

Claims 9, 22 and 29, Herz teaches:

wherein the proposed solution is represented as a bit string of a length that is equal to the total of the remaining offers (see paragraphs 236-243).

Claims 10, 23 and 30, Herz teaches:

The method of claim 9 wherein the proposed solution is checked against rules of the form (M,S) meaning at most M offers from set S can be sent to a customer (see paragraphs 236-243).

Claims 11 and 24, Herz teaches:

wherein if an (M,S) rule is violated, a list of new alternative proposed solutions is generated by: determining a number of bits  $T > M$  from the set S that indicate offers should be sent in the proposed solution; generating new alternative proposed solutions

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*each proposed solution containing new alternative offers, wherein each new alternative offers is represented in a bit string by setting T-M number of bits that are not a part of the set S, and which immediately follow a *rightmost* one bit R1 in the proposed solution (see paragraphs 257-258).*

Claims 12 and 25, Herz teaches:

generating alternative proposed solutions based on all combinations of the T one bits up to R1 and any zero bits in set S between R1 and R2 containing M one bits (see paragraphs 257-258).

Claims 13 and 26, Herz teaches:

wherein the new alternative proposed solutions are each merged with any preceding list of proposed solutions (see paragraphs 236-242).

Claim 14, Herz teaches:

wherein the list of proposed solutions is checked in decreasing order of profitability (see paragraphs 236-243; 257-258).

Claims 15 and 27, Herz teaches:

accommodating a budget by sorting all offers chosen for all customers by return on investment and truncating the bottom of the list (see paragraphs 236-243).

Claim 16, Herz teaches:

flagging customers who are truncated for each offer (see paragraphs 257-258);  
and

rerunning flagged customers after removing exhausted offers and offers that the flagged customers were already approved for, while lowering their max number of allowed offers (see paragraphs 257-258).

Claim 17, Herz teaches:

wherein truncating occurs at a boundary defined by a constraint on the method (see paragraphs 257-258).

Claim 18, Herz teaches:

wherein truncating is selectable by the user (see paragraphs 257-258).

Claim 19, Herz teaches:

wherein truncating occurs based on individual variance of profit from each customer with customers having low variance being truncated for certain offers before customers having high variance (see paragraphs 257-258).

### ***Response to Arguments***

4. Applicant's arguments filed 03/19/2008 have been fully considered but they are not persuasive. The Applicant argues that Herz does not describe a method of generating an ordered listing of offers from a set of offers from a set of offers by considering the potential customer independently from others of the potential customers in the group. The Examiner answers that Herz teaches a system that selects offers to be presented to a shopper, where said offers are displayed to said shopper in an ordered list (see paragraph 38) and where said offers are ranked (see paragraph 243) from the highest priced offers that the shopper is likely to accept (see paragraph 240). Herz also teaches identifying offers that are appropriate for each shopper independently

from other shoppers in a group (see paragraph 24). Therefore, contrary to Applicant's argument, Herz teaches Applicant's claimed limitation.

The Applicant argues that Herz does not teach claim 4. The Examiner answers that Herz teaches identifying offers that are appropriate for each shopper (See paragraph 24). Therefore, contrary to Applicant's argument, Herz teaches claim 4.

The Applicant argues that Herz does not teach claim 5. The Examiner answers that Herz teaches automatically selecting offers to maximize vendor profits where said offers are ranked (i.e. "producing an alternative *ordered listing of offers* having N offers; see paragraphs 236, 243).

The Applicant argues that Herz does not teach claim 6 because Herz's list was not obtained through consideration of a single shopper but through specific grouping of shoppers. The Examiner answers that Herz teaches identifying offers that are appropriate for each shopper (see paragraph 24) and that Herz predicts how likely each shopper from a group of shoppers is to purchase a given offer (see paragraph 240). Therefore, contrary to Applicant's argument, Herz teaches claim 6.

The Applicant argues that Herz does not teach claim 7. The Examiner answers that Herz teaches an ordered list of offers rank by profit of said offers (see paragraphs 38 and 240) where said list is a prioritized list as said offers in said list are ordered or rank (see paragraph 243) based upon profits (see paragraph 38 "displayed more centrally"). Therefore, contrary to Applicant's argument, Herz teaches claim 7.

The Applicant argues that Herz does not teach claims 8, 9, 21, 22 and 29. The Examiner answers that the list presented to shopper in the Herz system is a subset of a



list, where only the offers relevant to each shopper are selected in said list (see paragraph 252). Therefore, contrary to Applicant's argument, Herz teaches the limitation in said claims.

The Applicant argues that Herz does not teach claims 10, 23 and 30. The Examiner answers that Herz teaches selecting from a group of offers a subset of offers (i.e. "M") to display to a shopper (see paragraph 252) and Herz also selects the one offers from a list of n offers (i.e. "S") which the shopper's interest is estimated to be highest. Therefore, contrary to Applicant's argument, Herz teaches the limitation of said previous claims.

The Applicant argues that Herz does not teach claims 11 and 24. The Examiner answers that Herz teaches in paragraph 246 adjusting the offers send to shoppers by sending alternative version of said offers. Therefore, contrary to Applicant's argument, Herz teaches the limitation of said previous claims.

The Applicant argues with respect to claims 12-19 and 25-27 that Herz does not teach generating alternative proposed solutions based on all combinations of the T one bits up to R1 and any zero bits in set S between R1 and R2 containing M one bits. The Examiner answers that the Applicant is simply repeating the claimed limitation without interpreting said claimed limitation.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/  
Art Unit 3688  
June 2, 2008